

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

RUBEN M. TRUJILLO, RICHARD  
GONZALEZ, SERGIO MEZA-MEDINA,  
DANIEL MIMS, and RENE RODRIGUEZ,

Defendants.

No. CR-13-2109-FVS-1  
CR-13-2109-FVS-2  
CR-13-2109-FVS-3  
CR-13-2109-FVS-5  
CR-13-2109-FVS-6

ORDER DENYING "MOTION TO  
DISMISS FOR LACK OF  
JURISDICTION"

**RUBEN M. TRUJILLO** moves to dismiss the Superseding Indictment on the ground the United States lacks authority to prohibit the medical use of marijuana in the State of Washington.

**BACKGROUND**

Ruben Trujillo argues he was entitled to cultivate marijuana pursuant to the terms of the Washington State Medical Use of Cannabis Act ("MUCA"), chapter RCW 69.51A. He further insists he was complying with the state MUCA's requirements. Believing, as he does, he was in compliance with state law, he argues he is not subject to prosecution under the Controlled Substances Act ("CSA"), 21 U.S.C. § 801 *et seq.* First, he claims the CSA does not preempt the state MUCA. Second, he claims the CSA does not regulate the medicinal use of marijuana. Third, he claims the CSA should not be interpreted to prohibit a

1 medical treatment that has been approved by one of the States.

2 **RULING**

3 1. The Controlled Substances Act Regulates All Uses of Marijuana

4 Each CSA-regulated substance is placed in one of five schedules.  
5 Congress placed marijuana in Schedule I. 21 U.S.C. § 812(c)(10).  
6 This decision reflected Congress' determination "marijuana has 'no  
7 currently accepted medical use' at all." *United States v. Oakland*  
8 *Cannabis Buyers' Co-op.*, 532 U.S. 483, 491, 121 S.Ct. 1711, 149  
9 L.Ed.2d 722 (2001) (hereinafter "*OCBC II*") (quoting 21 U.S.C. § 812).  
10 Mr. Trujillo disagrees with Congress' negative assessment of  
11 marijuana. Contrary to Congress, he thinks marijuana has important  
12 medical uses. Many people agree with him, but their opinions, however  
13 sincere, do not change the law. "Unlike drugs in other schedules, . .  
14 . schedule I drugs cannot be dispensed under a prescription." *OCBC*  
15 *II*, 532 U.S. at 492 n.5, 121 S.Ct. 1711. The Supreme Court reiterated  
16 this point in *Gonzales v. Raich*, 545 U.S. 1, 125 S.Ct. 2195, 162  
17 L.Ed.2d 1 (2005) (hereinafter "*Raich I*"). "By classifying marijuana  
18 as a Schedule I drug," said the Supreme Court, "the manufacture,  
19 distribution, or possession of marijuana became a criminal offense,  
20 with the sole exception being use of the drug as part of a Food and  
21 Drug Administration preapproved research study." *Id.* at 14, 125 S.Ct.  
22 2195. Clearly, then, the CSA regulates all uses of marijuana.

23 2. *OCBC II* and *Raich I* Are Still Good Law

24 In *OCBC II*, the Supreme Court held "medical necessity is not a  
25 defense to manufacturing and distributing marijuana." 532 U.S. at  
26

1 494, 121 S.Ct. 1711. In *Raich I*, the Supreme Court held Congress did  
2 not exceed its authority under the Commerce Clause by categorically  
3 prohibiting the manufacture and possession of marijuana, including  
4 "the intrastate manufacture and possession of marijuana for medical  
5 purposes." 545 U.S. at 15, 125 S.Ct. 2195. Mr. Trujillo maintains  
6 *OCBC II* and *Raich I* have been qualified by *Gonzales v. Oregon*, 546  
7 U.S. 243, 248, 275, 126 S.Ct. 904, 163 L.Ed.2d 748 (2006). There, the  
8 Supreme Court held the CSA does not allow "the United States Attorney  
9 General to prohibit doctors from prescribing regulated drugs for use  
10 in physician-assisted suicide, notwithstanding a state law permitting  
11 the procedure." Mr. Trujillo insists the United States Attorney's  
12 decision to seek his indictment is analogous to the Attorney General's  
13 decision to prohibit doctors from prescribing regulated drugs for  
14 physician-assisted suicide. In both instances, says Mr. Trujillo, an  
15 official in the Executive Branch is improperly interfering with the  
16 determination of the people of a State regarding the proper practice  
17 of medicine.

18  
19 The holding in *Gonzales v. Oregon* was based, in part, upon  
20 considerations of federalism. The States, observed the Supreme Court,  
21 enjoy "great latitude under their police powers to legislate as to the  
22 protection of the lives, limbs, health, comfort, and quiet of all  
23 persons." 546 U.S. at 270, 126 S.Ct. 904 (internal punctuation and  
24 citations omitted). The Supreme Court was reluctant to authorize the  
25 Executive Branch to interfere with the States' traditional authority  
26 to regulate the practice of medicine unless the CSA clearly conferred

1 such authority. After examining the text and structure of the CSA,  
2 the Supreme Court decided the Attorney General had overreached. "[W]e  
3 conclude," said the Supreme Court, that "the CSA's prescription  
4 requirement does not authorize the Attorney General to bar dispensing  
5 controlled substances for assisted suicide in the face of a state  
6 medical regime permitting such conduct." 546 U.S. at 270, 126 S.Ct.  
7 904. In reaching that conclusion, the Supreme Court distinguished  
8 physician-assisted suicide from the use of marijuana for medical  
9 purposes. Congress had made an express determination about marijuana  
10 that Congress had not made about physician-assisted suicide. Unlike  
11 the latter, "Congress' express determination that marijuana had no  
12 accepted medical use foreclosed any argument about statutory coverage  
13 of drugs available by a doctor's prescription." 546 U.S. at 269, 126  
14 S.Ct. 904 (citing *OCBC II*, 532 U.S. 483, 121 S.Ct. 1711).

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16 3. 21 U.S.C. § 903

17 Mr. Trujillo distinguishes between the recreational use of  
18 marijuana and the medical use of marijuana. He maintains the CSA  
19 regulates the former, but not the latter. He insists the law of the  
20 State of Washington is in accord with the CSA. As he points out,  
21 marijuana is a Schedule I controlled substance under state law. See,  
22 e.g., *State v. Reis*, No. 69911-3-I, 2014 WL 1284863, at \*2 (March 31,  
23 2014). However, the people of the state have decided that persons who  
24 use marijuana for medical purposes may not be prosecuted in state  
25 court if they comply with the requirements of the Washington State  
26 Medical Use of Cannabis Act. In Mr. Trujillo's opinion, state law

1 makes the same distinction the CSA makes. The recreational use of  
2 marijuana is forbidden in most circumstances, while the medical use of  
3 marijuana is permitted in certain circumstances. That being the case,  
4 says Mr. Trujillo, there is no "positive conflict" between state law  
5 and the CSA: they may "stand together." 21 U.S.C. § 903.<sup>1</sup>

6 Mr. Trujillo's argument rests upon a number of assumptions, one  
7 of which is the CSA does not forbid the use of marijuana for medical  
8 purposes. This assumption is unwarranted. Contrary to Mr. Trujillo,  
9 the CSA forbids the manufacture, distribution, and possession of  
10 marijuana. There is no medical marijuana exception. *See, e.g., Raich*  
11 *I*, 545 U.S. at 27, 125 S.Ct. 2195 ("The CSA designates marijuana as  
12 contraband for any purpose; in fact, by characterizing marijuana as a  
13 Schedule I drug, Congress expressly found that the drug has no  
14 acceptable medical uses."). Consequently, to the extent the law of  
15 the State of Washington authorizes persons in this state to  
16 manufacture, distribute, or possess marijuana for medical purposes,  
17 state law "cannot consistently stand" with federal law. 21 U.S.C. §  
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19 <sup>1</sup>Section 903 states:  
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21 No provision of this subchapter shall be construed as  
22 indicating an intent on the part of the Congress to  
23 occupy the field in which that provision operates,  
24 including criminal penalties, to the exclusion of any  
25 State law on the same subject matter which would  
26 otherwise be within the authority of the State, unless  
there is a positive conflict between that provision of  
this subchapter and that State law so that the two  
cannot consistently stand together.

1 903. There is a "positive conflict" between federal law and state  
2 law. *Id.* Section 903 affords no protection to Mr. Trujillo.

3 **IT IS HEREBY ORDERED:**

4 Ruben Trujillo's "Motion to Dismiss for Lack of Jurisdiction"  
5 (ECF No. 281) is **denied**.

6 **IT IS SO ORDERED.** The District Court Executive is hereby  
7 directed to enter this order and furnish copies to counsel.

8 **DATED** this 25th day of July, 2014.

9  
10 s/ Fred Van Sickle  
11 Fred Van Sickle  
Senior United States District Judge